

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

BEVERLY MCCARTY

v.

SUNRISE SENIOR LIVING
MANAGEMENT, INC. and MORSUN
PLANO SENIOR LIVING, L.P.

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Case No. 4:10-CV-392
Judge Schneider/Judge Mazzant

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

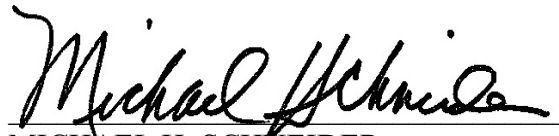
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On July 29, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Sunrise Senior Living, Inc. and Morsun Plano Senior Living, L.P.'s Motion for Summary Judgment (Dkt. #32) should be denied.

The Court has made a *de novo* review of Defendants' objections. Defendants object to Plaintiff's summary judgment evidence as follows: (1) the testimony by Plaintiff that Paul Beck told her he warned management to turn off the sprinklers before the freeze, and (2) the testimony by Plaintiff as to the source of the water in the flowerbed. Defendants correctly assert that the report of the Magistrate Judge does not directly rule on the evidentiary objections raised by Defendants. However, it is clear from a review of the opinion that the Magistrate Judge did not consider those statements by Plaintiff in making his recommendation. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Defendant Sunrise Senior Living, Inc. and Morsun Plano Senior Living, L.P.'s Motion for Summary Judgment (Dkt. #32) is **DENIED**.

It is SO ORDERED.

SIGNED this 18th day of August, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE